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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

WORKU, NEGUSSIE

ART UNIT PAPER NUMBER

2626

DATE MAILED: 03/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/660,240

Applicant(s)

SATO, TSUNEO

Examiner

Negussie Worku

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5 and 6 is/are rejected.
- 7) ☒ Claim(s) 3 and 4 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

1. Applicant's arguments with respect to claims 1-6, have been considered but are moot in view of the new ground(s) of rejection and the office action is non-final.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-2, 5 and 6, are rejected under 35 U.S.C. 102(e) as being anticipated by Yamada et al. (USP 6,067,171).

With respect to claim 1, Yamada et al. discloses an image transmitter (a portable facsimile unit 10 of fig 1), which transmits image data, see (col.4, lines 1-3) the image transmitter (facsimile unit 10), comprising: an image selecting device (*selection [judgment]* is made by a document sensor for detecting the presence of document page

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which is provided in the reading section 21 of fig 1, see col.4, lines 32-33) selects at least one image to be transmitted, see (col.4, lines 42-45); a data amount determining device (CPU 11 of fig1) which determines an amount of data in the selected image, see (col.4, lines line 1-4); a battery residual quantity determining device (voltage detecting section 24 of fig 1, see col.4, lines 35-40) which determines a residual quantity of a battery powering the image transmitter (a transmitter facsimile 10 of fig 1); a transmutability determination device, (CPU 11 of fig 1), see (col.4, lines 50-54) determines that it is possible to transmit all of the image data, see (col.4, lines 43-48) and which prohibits the image data from being transmitted if the transmutability determination device determines that it is impossible to transmit all of the image data, see (col.4, lines 44-49).

With respect to claim 2, Yamada discloses the image transmitter (as shown in fig 1), further comprising a display device (as shown in fig 6), which displays a message indicating that it is impossible to transmit all of the image data if the control device prohibits the image data from being transmitted (*FIG. 6 is a view showing an example of a display section for displaying the time for residual communication in the portable wireless telephone unit and the display of the transmission disablement in step S10 includes a display "since the residual amount of power in the battery is small, no transmission is made, see col.6, lines 28-32).*

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With respect to claim 5, Yamada et al., disclose the image transmitter (a facsimile 10 of fig 1), wherein when a plurality of images (all image data retained in SRAM 15, see col.4, lines 44-46) are selected to be transmitted if it is determined that it is impossible to transmit all of the image data, see (col.4, lines 40-45), the control device (CPU 11 of fig 1, executes the operation of the system) transmits only transmittable image data per image and prohibits the rest of image data from being transmitted, see (col.4, lines 43-45).

With respect to claim 6, Yamada et al., discloses the image transmitter (facsimile 10 as shown in fig 1), wherein the image data comprises main image data (document page read by reading section 21 of fig 1) and thumbnail image data, if the determination device (CPU 11 of fig1), determines that it is impossible to transmit all of the main image data, see (col.4, lines 43-45), the determination device further determines whether it is possible to transmit all of the thumbnail image data, see (col.4, lines 40-45); and if the determination device (CPU 11 of fig 1) determines that it is impossible to transmit all of the main image data and that it is possible to transmit all of the thumbnail image data, the control device (control section 119 of fig 10) transmits the thumbnail image data instead of the main image data.

Claims having allowable subject matter

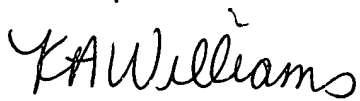
4. Claims 3 and 4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

With respect to claim 3 and 4 Yamada does not disclose, wherein the image data comprises an identification code; and the image-selecting device selects the image to be transmitted according to input of the identification code.

5. Any inquiry concerning this communication or earlier communication from Examiner should be directed to *Negussie Worku* whose telephone number is (703) 305 5441.

The Examiner can normally be reached on M-F, 9 am - 6 pm if attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, ***Kimberly Williams***, can be reached on (703) 305-4863.

The fax phone number for the organization where this application or proceeding is assigned is (703) 306-5406, and any inquiry of general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.


KIMBERLY WILLIAMS
SUPERVISORY PATENT EXAMINER

Negussie Worku
03/03/04

